

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:11-cv-00449-RLW**

NAVISTAR, INC. v. U.S. ENVIRONMENTAL PROTECTION
AGENCY
Assigned to: Judge Robert L. Wilkins
Cause: 05:552 Freedom of Information Act

Date Filed: 02/28/2011
Date Terminated: 07/24/2012
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

NAVISTAR, INC.

represented by **Kyle Robert Jefcoat**
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V.

Defendant

**U.S. ENVIRONMENTAL
PROTECTION AGENCY**

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Date Filed	#	Docket Text
02/28/2011	<u>1</u>	COMPLAINT against U.S. ENVIRONMENTAL PROTECTION AGENCY (Filing fee \$ 350, receipt number 4616036812) filed by NAVISTAR, INC. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I, # <u>10</u> Exhibit J, # <u>11</u> Exhibit K, # <u>12</u> Civil Cover Sheet)(rdj) (Entered: 03/01/2011)
02/28/2011		SUMMONS (3) Issued as to U.S. ENVIRONMENTAL PROTECTION AGENCY, U.S. Attorney and U.S. Attorney General (rdj) (Entered: 03/01/2011)
02/28/2011	<u>2</u>	LCvR 7.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by NAVISTAR, INC. identifying Corporate Parent NAVISTAR INTERNATIONAL CORPORATION, Corporate Parent BLUE DIAMOND PARTS LLC for NAVISTAR, INC. (rdj) (Entered: 03/01/2011)
02/28/2011	<u>3</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Laurence H. Levine, :Firm- Laurence H. Levine Law Offices, :Address- 190 South LaSalle Street, Suite 3120, Chicago, IL 60603. Phone No. - (312) 291-7000. by NAVISTAR, INC. (Attachments: # <u>1</u> Text of Proposed Order)(rdj) (Entered: 03/01/2011)
03/10/2011	<u>4</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 3/3/11. (Jefcoat, Kyle) (Entered: 03/10/2011)
03/10/2011	<u>5</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. U.S. ENVIRONMENTAL PROTECTION AGENCY served on 3/3/2011 (Jefcoat, Kyle) (Entered: 03/10/2011)
03/10/2011	<u>6</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 3/3/2011. Answer due for ALL FEDERAL DEFENDANTS by 4/2/2011. (Jefcoat, Kyle) (Entered: 03/10/2011)
03/11/2011		MINUTE ORDER granting <u>3</u> Motion for Leave to Appear Pro Hac Vice of Laurence H. Levine. Mr. Levine is admitted pro hac vice to appear in this matter on behalf of Plaintiff. Signed by Judge Robert L. Wilkins on 3/11/2011. (tcb) (Entered: 03/11/2011)
03/31/2011	<u>7</u>	NOTICE of Appearance by Alan R. Burch on behalf of U.S. ENVIRONMENTAL PROTECTION AGENCY (Burch, Alan) (Entered: 03/31/2011)
04/01/2011	<u>8</u>	First MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to the Complaint</i> by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 04/01/2011)
04/04/2011	<u>9</u>	Memorandum in opposition to re <u>8</u> First MOTION for Extension of Time to File Answer re <u>1</u> Complaint, <i>or Otherwise Respond to the Complaint</i> filed by NAVISTAR, INC.. (Jefcoat, Kyle) (Entered: 04/04/2011)
04/05/2011		MINUTE ORDER granting in part and denying in part <u>8</u> Motion for Extension of Time to Answer All Defendants.; Set/Reset Deadlines: Answer due by 4/18/2011. Signed by Judge Robert L. Wilkins on 4/5/2011. (Wilkins, Robert) (Entered: 04/05/2011)
04/06/2011	<u>10</u>	Second MOTION for Extension of Time to File Answer re <u>1</u> Complaint, by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 04/06/2011)

04/07/2011	<u>11</u>	Memorandum in opposition to re <u>10</u> Second MOTION for Extension of Time to File Answer re <u>1</u> Complaint, filed by NAVISTAR, INC.. (Jefcoat, Kyle) (Entered: 04/07/2011)
04/07/2011	<u>12</u>	NOTICE of Proposed Order by NAVISTAR, INC. re <u>11</u> Memorandum in Opposition (Jefcoat, Kyle) (Entered: 04/07/2011)
04/07/2011	<u>13</u>	ORDER granting <u>10</u> Defendant's Second Motion for Extension of Time to Answer or Otherwise Respond to the Complaint; it is hereby ORDERED that the Motion is GRANTED, and it is further ORDERED that in the event of a federal government shutdown as of April 15, 2011, or April 18, 2011, Defendants deadline to file its answer or otherwise respond to the complaint shall be extended until seven days past the resumption of normal government operations. Signed by Judge Robert L. Wilkins on 4/7/2011. (tcb) (Entered: 04/07/2011)
04/18/2011	<u>14</u>	ANSWER to <u>1</u> Complaint, by U.S. ENVIRONMENTAL PROTECTION AGENCY.(Burch, Alan) (Entered: 04/18/2011)
04/26/2011	<u>15</u>	AMENDED COMPLAINT against U.S. ENVIRONMENTAL PROTECTION AGENCY filed by NAVISTAR, INC.. (Attachments: # <u>1</u> Exhibits)(znmw,) (Entered: 04/28/2011)
05/10/2011	<u>16</u>	ANSWER to <u>15</u> Amended Complaint by U.S. ENVIRONMENTAL PROTECTION AGENCY. Related document: <u>15</u> Amended Complaint filed by NAVISTAR, INC..(Burch, Alan) (Entered: 05/10/2011)
05/17/2011	<u>17</u>	MOTION for Preliminary Injunction by NAVISTAR, INC. (Attachments: # <u>1</u> Attachment 1, # <u>2</u> Attachment 2, # <u>3</u> Attachment 3, # <u>4</u> Attachment 4, # <u>5</u> Attachment 5, # <u>6</u> Attachment 6, # <u>7</u> Attachment 7, # <u>8</u> Attachment 8, # <u>9</u> Attachment 9, # <u>10</u> Attachment 10, # <u>11</u> Attachment 11, # <u>12</u> Text of Proposed Order)(Jefcoat, Kyle) (Entered: 05/17/2011)
05/27/2011	<u>18</u>	Memorandum in opposition to re <u>17</u> MOTION for Preliminary Injunction filed by U.S. ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit Declaration of Karl Simon, # <u>2</u> Text of Proposed Order)(Burch, Alan) (Entered: 05/27/2011)
06/06/2011	<u>19</u>	REPLY to opposition to motion re <u>17</u> MOTION for Preliminary Injunction filed by NAVISTAR, INC.. (Jefcoat, Kyle) (Entered: 06/06/2011)
07/18/2011	<u>20</u>	MOTION for Protective Order by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Exhibit Plaintiff's request for production of documents, # <u>2</u> Text of Proposed Order)(Burch, Alan) (Entered: 07/18/2011)
07/18/2011	<u>21</u>	MOTION for Discovery by NAVISTAR, INC. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit 3, # <u>4</u> Exhibit 4, # <u>5</u> Text of Proposed Order)(Jefcoat, Kyle) (Entered: 07/18/2011)
08/04/2011	<u>22</u>	Memorandum in opposition to re <u>20</u> MOTION for Protective Order filed by NAVISTAR, INC.. (Jefcoat, Kyle) (Entered: 08/04/2011)
08/04/2011	<u>23</u>	Memorandum in opposition to re <u>21</u> MOTION for Discovery filed by U.S. ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 08/04/2011)
08/11/2011	<u>24</u>	Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION for Protective Order, <u>21</u> MOTION for Discovery by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 08/11/2011)
08/12/2011		MINUTE ORDER granting re <u>24</u> Unopposed MOTION for Extension of Time to File Response/Reply as to <u>20</u> MOTION for Protective Order, <u>21</u> MOTION for Discovery filed by U.S. ENVIRONMENTAL PROTECTION AGENCY; and it is further ORDERED that both parties may file their replies to the August 4, 2011 oppositions on or before August 22, 2011. Signed by Judge Robert L. Wilkins on 8/12/2011. (tcb,) (Entered: 08/15/2011)
08/12/2011		Set/Reset Deadlines: Both parties replies due by 8/22/2011. (tcb) (Entered: 08/15/2011)

08/22/2011	<u>25</u>	REPLY to opposition to motion re <u>20</u> MOTION for Protective Order filed by U.S. ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit Second Simon Declaration)(Burch, Alan) (Entered: 08/22/2011)
08/22/2011	<u>26</u>	REPLY to opposition to motion re <u>21</u> MOTION for Discovery filed by NAVISTAR, INC.. (Attachments: # <u>1</u> Exhibit 1)(Jefcoat, Kyle) (Entered: 08/22/2011)
08/25/2011	<u>27</u>	MEMORANDUM AND OPINION re: <u>17</u> MOTION for Preliminary Injunction. Signed by Judge Robert L. Wilkins on 8/25/2011. (tcb). (Entered: 08/25/2011)
08/25/2011	<u>28</u>	ORDER denying <u>17</u> Motion for Preliminary Injunction. Signed by Judge Robert L. Wilkins on 8/25/2011. (tcb) (Entered: 08/25/2011)
08/29/2011		MINUTE ORDER: It is hereby ORDERED that Plaintiffs <u>21</u> Motion for Discovery is denied for failure to certify compliance with Local Civil Rule 7(m). Signed by Judge Robert L. Wilkins on 8/29/2011. (tcb) (Entered: 08/29/2011)
02/01/2012		MINUTE ORDER: The parties are hereby directed to submit a Joint Status Report and Proposed briefing scheduled for Summary Judgment Motions by February 8, 2012. Signed by Judge Robert L. Wilkins on 2/1/12. (lclrw1,) (Entered: 02/01/2012)
02/06/2012		MINUTE ORDER denying as MOOT <u>20</u> Motion for Protective Order. Signed by Judge Robert L. Wilkins on 2/6/2012. (tcb) (Entered: 02/06/2012)
02/08/2012	<u>29</u>	Consent MOTION for Extension of Time to File <i>Joint Status Report</i> by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 02/08/2012)
02/09/2012	<u>30</u>	ORDER granting <u>29</u> Consent MOTION for Extension of Time to File Joint Status Report; and it is further ORDERED that the parties shall file their Joint Status Report on or before February 10,2012. Signed by Judge Robert L. Wilkins on 2/09/2012. (tcb) (Entered: 02/09/2012)
02/10/2012	<u>31</u>	STATUS REPORT by NAVISTAR, INC., U.S. ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit EPA's Declaration of Byron Bunker, # <u>2</u> Text of Proposed Order by EPA, # <u>3</u> Text of Proposed Order by Navistar)(Burch, Alan) (Entered: 02/10/2012)
02/13/2012		NOTICE of Hearing:Status Conference set for 2/27/2012 at 11:00 AM in Courtroom 17 before Judge Robert L. Wilkins. (tcb) (Entered: 02/13/2012)
02/14/2012	<u>32</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name– Robin M Hulshizer, :Firm– Latham &Watkins LLP, :Address– 233 South Wacker Drive, Suite 5800, Chicago, IL 60606. Phone No. – 312–876–7700. Fax No. – 312–993–9767 by NAVISTAR, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Jefcoat, Kyle) (Entered: 02/14/2012)
02/15/2012		MINUTE ORDER granting <u>32</u> Motion for Leave to Appear Pro Hac Vice of Attorney Robin M. Hulshizer. Attorney Hulshizer is admitted pro hac vice to appear in this matter on behalf of Plaintiff. Signed by Judge Robert L. Wilkins on 2/15/2012. (tcb) (Entered: 02/15/2012)
02/27/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Status Conference held and concluded on 2/27/2012. Defendant's to submit a coded Vaughn Index by March 19, 2012. Status Conference set for 3/26/2012 at 11:00 AM in Courtroom 17 before Judge Robert L. Wilkins. (Court Reporter Rebecca Stonestreet) (tcb) (Entered: 02/28/2012)
03/15/2012	<u>33</u>	TRANSCRIPT OF PROCEEDINGS before Judge Robert L. Wilkins held on February 27, 2012; Page Numbers: 1 – 22. Date of Issuance:March 15, 2012. Court Reporter/Transcriber Rebecca Stonestreet, Telephone number 202–354–3249, Court Reporter Email Address : kingreporter2@verizon.net.<P></P>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.<P> NOTICE RE REDACTION OF TRANSCRIPTS: The parties have

		twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at ww.dcd.uscourts.gov .<P></P> Redaction Request due 4/5/2012. Redacted Transcript Deadline set for 4/15/2012. Release of Transcript Restriction set for 6/13/2012.(Stonestreet, Rebecca) (Entered: 03/15/2012)
03/19/2012	<u>34</u>	Vaughn Index <i>Coded</i> . (Attachments: # <u>1</u> Exhibit Declaration of Byron Bunker, # <u>2</u> Exhibit listing of withholdings, # <u>3</u> Exhibit examples)(Burch, Alan) (Entered: 03/19/2012)
03/26/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Status Conference held and concluded on 3/26/2012. Further Status Conference set for 5/8/2012 at 10:30 AM in Courtroom 17 before Judge Robert L. Wilkins. (Court Reporter Lisa Foradori) (tcb) (Entered: 03/27/2012)
04/12/2012	<u>35</u>	Unopposed MOTION to Change Date of Status Conference by NAVISTAR, INC. (Attachments: # <u>1</u> Text of Proposed Order)(Jefcoat, Kyle) (Entered: 04/12/2012)
04/13/2012	<u>36</u>	ORDER granting <u>35</u> Unopposed MOTION to Change Date of Status Conference;It is further, ORDERED that the Status Conference will be held at 9:00 AM on May 16, 2012. Signed by Judge Robert L. Wilkins on 4/13/2012. (tcb) (Entered: 04/13/2012)
05/14/2012	<u>37</u>	STATUS REPORT <i>Regarding Meet and Confer Ordered by the Court</i> by NAVISTAR, INC.. (Attachments: # <u>1</u> Attachment 1)(Jefcoat, Kyle) (Entered: 05/14/2012)
05/15/2012	<u>38</u>	STATUS REPORT <i>Regarding Meet and Confer Ordered by the Court (UPDATED)</i> by NAVISTAR, INC.. (Attachments: # <u>1</u> Exhibit 1)(Hulshizer, Robin) (Entered: 05/15/2012)
05/16/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Status Conference held and concluded on 5/16/2012. (Court Reporter Rebecca Stonestreet) (tcb) (Entered: 05/16/2012)
05/16/2012		MINUTE ORDER: Status Conference held and concluded on 5/16/2012. Defendant shall submit to Plaintiff, by no later than May 30, 2012, a full Vaughn Index for the documents identified in Category #11 in Appendix A to Plaintiffs April 30, 2012 letter. A Status Conference has been set for June 25, 2012 at 1:30 PM EST in Courtroom 17 before Judge Robert L. Wilkins. By no later than 5:00 PM EST on June 22, 2012, the parties shall submit a Joint Status Report, which shall include a joint proposed briefing schedule for summary judgment and a schedule for further proceedings. Signed by Judge Robert L. Wilkins on 5/16/2012. (tcb) (Entered: 05/16/2012)
05/24/2012	<u>39</u>	Consent MOTION for Extension of Time to File <i>Vaughn Index for Category 11 Documents</i> by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 05/24/2012)
06/01/2012	<u>40</u>	ORDER granting <u>39</u> Consent MOTION for Extension of Time to File Vaughn Index for Category 11 Documents;and it is further ORDERED that Defendant shall file the full Vaughn Index for the documents identified in Category #11 in Appendix A to Plaintiffs April 30, 2012 letter, on or before June 6, 2012. Signed by Judge Robert L. Wilkins on 6/1/2012. (tcb) (Entered: 06/01/2012)
06/06/2012	<u>41</u>	Consent MOTION for Extension of Time to File <i>Vaughn Index for Category 11 documents</i> by U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Burch, Alan) (Entered: 06/06/2012)
06/07/2012	<u>42</u>	ORDER granting <u>41</u> Consent MOTION for Extension of Time to File Vaughn Index for Category 11 documents; and it is further ORDERED that Defendant shall file the full Vaughn Index for the documents identified in Category #11 in Appendix A to Plaintiffs April 30, 2012 letter, on or before June 13, 2012. Signed by Judge Robert L. Wilkins on 6/7/2012. (tcb) (Entered: 06/07/2012)

06/13/2012	<u>43</u>	Vaughn Index for Category 11 documents per Appendix A of Plaintiff's letter of April 30, 2012. (Attachments: # <u>1</u> Vaughn listing, # <u>2</u> Bunker Declaration)(Burch, Alan) (Entered: 06/13/2012)
06/20/2012	<u>44</u>	<p>TRANSCRIPT OF PROCEEDINGS before Judge Robert L. Wilkins held on 3-26-12; Page Numbers: 1-32. Date of Issuance:6-20-12. Court Reporter/Transcriber Lisa M. Foradori, Telephone number 202-354-3269, Court Reporter Email Address : L4dori@hotmail.com.</p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi-page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty-one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at ww.dcd.uscourts.gov.</p> <p>Redaction Request due 7/11/2012. Redacted Transcript Deadline set for 7/21/2012. Release of Transcript Restriction set for 9/18/2012.(Hand, Lisa) (Entered: 06/20/2012)</p>
06/22/2012	<u>45</u>	Joint MOTION for Extension of Time to <i>File Status Report (One Hour)</i> by NAVISTAR, INC., U.S. ENVIRONMENTAL PROTECTION AGENCY (Attachments: # <u>1</u> Text of Proposed Order)(Weinstein, Laurie) (Entered: 06/22/2012)
06/22/2012	<u>46</u>	STATUS REPORT (<i>Joint</i>) by NAVISTAR, INC., U.S. ENVIRONMENTAL PROTECTION AGENCY. (Attachments: # <u>1</u> Exhibit Bunker Declaration)(Weinstein, Laurie) (Entered: 06/22/2012)
06/25/2012	<u>47</u>	ORDER granting <u>45</u> Joint MOTION for Extension of Time to File Status Report (One Hour); it is hereby ORDERED that the Joint Status Report may be filed by 6:00 p.m. on June 22, 2012. Signed by Judge Robert L. Wilkins on 6/25/2012. (tcb) (Entered: 06/25/2012)
06/25/2012		Minute Entry for proceedings held before Judge Robert L. Wilkins: Status Conference held and concluded on 6/25/2012. Court to issue proposed order. (Court Reporter Lisa Griffith) (tcb) (Entered: 06/25/2012)
06/25/2012	<u>48</u>	SUMMARY JUDGMENT SCHEDULING ORDER: It is hereby ORDERED that this case shall proceed in accordance with the following deadlines and procedures: EPAs Motion for Summary Judgment due by 09/28/2012. Navistars Cross-Motion and Opposition due by 10/19/2012. EPAs Opposition and Reply due by 11/2/2012. Navistars Reply due by 11/16/2012. Signed by Judge Robert L. Wilkins on 6/25/2012. (tcb) (Entered: 06/25/2012)
07/20/2012	<u>49</u>	STIPULATION of Dismissal (<i>Joint</i>) by NAVISTAR, INC.. (Jefcoat, Kyle) (Entered: 07/20/2012)
07/24/2012		MINUTE ORDER: Consistent with the Stipulation of Dismissal filed by the parties, this action is hereby DISMISSED without prejudice. Each party to bear its own costs. Signed by Judge Robert L. Wilkins on 7/24/2012. (tcb) (Entered: 07/24/2012)